**2012 Chief FOIA Officer Report**

**Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Yes, all Agency employees participated in the Mandatory Online FOIA Training. In addition, all FOIA contacts participated training on the newly implemented FOIA Case Tracking and Management System.

1. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Yes, members of SBA's FOI/PA Office staff attended all of OIP's FOIA training seminars during the reporting period.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

1. Did your agency make any discretionary releases of otherwise exempt information?

SBA strives to disclose as much information as possible thought the majority of SBA records pertain to commercial entities or disaster loan borrows which are either commercial or personal. FOIA Contacts are advised to employ the presumption of disclosure rather than withholding information.

1. What exemptions would have covered the information that was released as a matter of discretion?

Exemption 5 would have covered information released as a matter of discretion.

1. Describe your agency's process to review records to determine whether discretionary releases are possible.

The FOI/PA Staff continuously works with Agency FOIA Contacts and senior Agency officials to enforce the presumption of openness. All referrals of FOIA requests are accompanied by

appropriate guidance and all FOIA responses are reviewed for compliance and when necessary are remanded for review and amendment if necessary.

6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Both the President's and the Attorney General's Memoranda were immediately disseminated to the Agency's FOIA Service Center Staff (FOIA Contacts) and Public Liaisons. Links to the President's Memorandum and Department of Justice (DOJ) guidance are available on SBA's FOIA Home Page.

All FOIA processing instructions to FOIA Contacts contains guidance on transparency and accountability.

All FOIA responses are reviewed for compliance with the presumption of openness. Responses that do not comply are re-directed to the appropriate FOIA Contact for reassessment.

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

No, SBA had a decrease in the number of full disclosure responses.

2010, SBA processed 3166 FOIA requests and provided 2601 full grants - 82% of responses.

2011, SBA processed 3132 FOIA requests and provided 2489 full grants - 79% of responses.

1. Did your agency have an increase in the number of responses where records were released in part?

Yes, SBA had an increase in partial grants.

2010, SBA provided 172 partial grants - .05% of responses.

2011, SBA provided 251 partial grants - .08% of responses.

**Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

   Yes, SBA's FOIA contacts have access and use of a recently deployed FOIA Case Tracking and Correspondence Management System.

1. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

   Yes, the Chief FOIA Officer and FOI/PA Staff have routine and daily interaction with Agency FOIA Contacts.

1. Do your FOIA professionals work with your agency's Open Government Team?

   Yes, the FOI/PA office works with members of SBA's Open Government Team.

1. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

   The FOI/PA Office works very closely with the Agency's FOIA Contacts and Public Liaisons to ensure that each Agency office has sufficient FOIA staffing levels.

1. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

   SBA's FOI/PA Office has daily interaction with the Agency's FOIA Contacts and has recently implemented and deployed an automated FOIA Case Tracking and Correspondence Management system for use by Agency FOIA Contacts.

**Section III: Steps Taken to Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Has your agency added new material to your website since last year?

   Yes, new material has been added

1. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

   Each of SBA's Program and Field Offices update data on their websites. Listed below are examples of some of SBA's proactive postings for this reporting period are:

   2011 Annual FOIA Report

   2011 Chief FOIA Officer Report

   Business Development 408 Report FY 09-FY 10

   7(j) Call Contracts FY 2011

   7(j) Call Contracts FY 2012

   8(a) Annual Review History

   2011 Federal Employee Viewpoint Survey Results

   The Small Business Agenda: Growing America's Small Business to Win the Future

SBA Plan for Operating in the Event of a Lapse in Appropriations
SBA Final plan for Retrospective Analysis of Existing Rules
First Quarter 2012 Retrospective Review Report
FY 2013 Congressional Budget Justification and FY 2011 Annual Performance Award
FY 2011 Agency Financial Report
FY 2012 Congressional Budget Justification and FY 2010 Annual Performance Award
FY 2011 Verification and Validation Forms
Recovery Act Reports
U.S. Small Business Administration Strategic Plan Fiscal Years 2011-2016
SBA Information Technology Strategic Plan (ITSP) 2012-2016
Data Center Consolidation Plan for the U.S. Small Business Administration
SBA Vendor Communication Plan
Draft Environmental Justice Strategic Plan
SBA Customer Service Plan
OIG Report on Business Loan and Lender Oversight
OIG Report on Disaster Loans
OIG Report on Surety Bonds
OIG Report on SBIC's
OIG Report on Government Contracting and Business Development
OIG Report on Entrepreneurial Development
OIG Report on Agency Management
OIG Monthly Updates
OIG Semi-Annual Reports
OIG Testimony
OIG Top Management Challenges
OIG Other Information Report
Unpaid Principal Balance by Program
Gross Approval Amount by Program
Number of Approved Loans by Program
Purchase Amount by Program
Charge Amount by Program
Post-Charge Off Recovery by Program
Purchase Rates as a Percentage of Unpaid Principal Balance (UPB) by Program
Charge Off Rates as a Percentage of Unpaid Principal Balance (UPB) by Program
Total Recovery Rates for Guaranteed Programs by Program
Post-Charge Off Recovery Rates by Program
SBA's Final Rule Increases Size Standards, Expands Eligibility for Small Business Programs
Advice and Tips on Starting a Small Business Offered in SBA's February Web Chat

Disaster Press Releases

Speeches

Congressional Testimony

Weekly Lending Report

Media and Press Contacts

Regional and Local Media

Small Business Procurement Scorecards

Links for Local Small Business Resources

Links for Small Business Information Sites

1. Describe the system your agency uses to routinely identify records that are appropriate for posting.

   The FOI/PA Office identifies topics of interest and trends by reviewing FOIA requests submitted to the Agency.

1. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

   SBA has a web design team that is dedicated to maintain and updating the Agency's websites. The team works individually with offices and program areas to ensure that websites are relevant to public interest and the concepts of Open Government.

1. Describe any other steps taken to increase proactive disclosures at your agency.

   The FOI/PA Office reviews FOIA requests and meets with Agency offices to promote proactive disclosures.

**Section IV: Steps Taken to Greater Utilize Technology**

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

*Electronic receipt of FOIA requests*:

1. Can FOIA requests be made electronically to your agency?

   Yes, the majority of all FOIA requests are submitted electronically.

1. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

   Yes.

*Online tracking of FOIA requests:*

1. Can a FOIA requester track the status of his/her request electronically?

No, that capability is not a feature of SBA's automated FOIA Case Tracking and Correspondence Management.

1. If not, is your agency taking steps to establish this capability?

SBA will acquire this feature if offered in future updates to the FOIA Case Tracking and Correspondence Management.

*Use of technology to facilitate processing of requests*:

1. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes, SBA recently deployed a FOIA Case Tracking and Correspondence Management system which tracks a case, related correspondence and documents throughout the life of the case. The system stores documents which can be stored, retrieved and shared.

1. If so, describe the technological improvements being made.

The systems contains features such case management during the entire case life cycle, generates correspondence, stores records, has redaction capability, and has reporting capabilities including those of the Annual FOIA Report.

## Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

a. Does your agency utilize a separate track for simple requests?

No, SBA processes all requests according as soon as possible regardless of the track.

a. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?

N/A

a. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Yes, 5.61 days.

1. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.

a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

Yes, SBA reported a backlog of 1 case, a decrease from 3 cases.

a. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

Yes, SBA reported a backlog of 1 case, a decrease from 3 cases.

a. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

Yes.

a. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

N/A

1. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog: N/A

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

N/A

a. Was the lack of a reduction in the request backlog caused by a loss of staff?

N/A

a. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

N/A

a. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Administrative Appeal Backlog:

N/A

a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

N/A

a. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

N/A

a. Was the lack of a reduction in the appeal backlog caused by in increase in the complexity of the appeals received?

N/A

a. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

N/A

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes, SBA's goal is to respond to 100 percent of all FOIA requests within statutory time limits. All FOIA guidance and all FOIA referral correspondence issued addresses and reiterates the goal for timely compliance.

Yes, SBA monitors the progress and status of the FOIA caseload. In addition the Agency's FOIA Case Tracking and Correspondence Management system allows the FOI/PA Office access to all FOIA cases and will further enhance monitoring of FOIA related progress and status. Each office can monitor their caseload and timeliness status annd the FOI/PA Office monitors the status of all requests within the Agency.

1. Has your agency increased its FOIA staffing?

No

1. Has your agency made IT improvements to increase timeliness?

SBA anticipates that the FOIA Case Tracking and Correspondence Management system which was deployed in FY 12 will increase timeliness.

1. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

SBA did not receive any consultations from other agencies during FY 2012.

## Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

   No

1. If so, what is the total number of times exclusions were invoked?

   N/A

## Spotlight on Success

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

SBA has recently purchased and deployed a FOIA case tracking and correspondence management system. The system allows for case management from initial receipt of a FOIA case to final disposition. Employees with assigned FOIA duties, primarily the FOIA Public Liaisons and FOIA Service Center Representatives, have access and use of the system. The FOI/PA Office has responsibility and oversight of the system and access to all data and records which will allow for improved coordination of FOIA activities. It is anticipated that the system's correspondence management, redaction capabilities and record storage capacity will be valuable tools in the production of timely and accurate responses. The system's reporting features will expedite the reporting process, assist with the coordination of FOIA processes and result in more efficient use of resources.

*Updated: October 2011*